Comments and Responses to the February 11, 2002 Tentative Order No. R9-2002-0025 and Draft NPDES Permit No. CA0107409 for the City of San Diego, E.W. Blom Point Loma Metropolitan Wastewater Treatment Plant Discharge to the Pacific Ocean though the Point Loma Ocean Outfall

The Regional Water Quality Control Board, San Diego Region (Regional Board) and U.S. Environmental Protection Agency (USEPA) jointly circulated Tentative Order No. R9-2002-0025 and Draft NPDES Permit No. CA0107409 for the City of San Diego, E.W. Blom Point Loma Metropolitan Wastewater Treatment Plant (PLMWTP) Discharge to the Pacific Ocean though the Point Loma Ocean Outfall on February 11, 2002 for public comment. The comment period closed at the end of the Regional Board hearing on March 13, 2002. This document is a joint response to comments prepared by the Regional Board and USEPA.

Each commenter has been assigned an identification number that is provided in parentheses at the end of each comment. The list of commenters and their corresponding identification number can be found at the end of this document. Where several commenters provided comments of a similar nature, the comments have been summarized into one comment and one joint response has been provided.

Comment 1: *Several commenters questioned the permit limit for mass emissions of solids and stated that mass emissions limitations are excessive and must be substantially reduced. They want the first year (2002) tonnage to be 10,200 (alleged to be the actual tonnage for 2001) and decline to 8,800 by January 1, 2006. By adopting these revisions, the commenters believe USEPA will comply with OPRA's declining mass emission requirement, arguing that the goal of the Clean Water Act is the "steady reduction" of pollutant discharges into receiving waters. (Commenters 25, 28, 34, 35, and 37).*

Response: We note that the permit limits have not changed significantly between this permit and the previous permit. We acknowledged the difference between the permit limits requested by the applicant and the actual loadings out the outfall in the Tentative Decision Document (TDD) (See page 10, Table 4). USEPA does not establish permit limits independent of a Section 301(h) request for modification to secondary treatment requirements. Instead, the USEPA evaluates the limits proposed in the 301(h) application to determine whether they meet all requirements of the 301(h) program, including the protection of State water quality standards. Furthermore, neither the CWA nor its implementing regulations require that permit limitations be based exclusively on current performance, provided they otherwise meet applicable requirements.

USEPA disagrees with some of the commenters' interpretation of OPRA that the limits in the annual mass emissions discharges during this permit term must be lower than what the applicant actually discharged during 2001 (10,392 mt/yr) and that these permit limits must decrease each year throughout the permit term. Nothing in the language of OPRA suggests that the mass emissions limits for the first year of this permit term be lower than

the actual emissions discharged by the applicant, nor does OPRA require that each year the applicant discharge fewer solids. Rather, it is USEPA's interpretation of OPRA that the applicant's discharge of mass emissions be reduced at some time over the course of the current permit term; OPRA is silent on when, how often, and at what intervals those reductions must take place. Thus, USEPA believes that this permit, which requires that the applicant's mass emissions discharge during the last year of the permit (2006) be lower than the permit limits set for the last year of the previous permit term, is entirely consistent with the language and purpose of OPRA. This interpretation is also consistent with relying on a reclamation-based approach to achieving solids reductions. The purpose of the mass emissions requirement in OPRA is to assist the applicant in implementing a water reclamation program. New reclamation facilities produce a stepped reduction in solids loading as they come on line. The permit limits allow the applicant sufficient time to implement a reclamation program and plan for the actual reuse of its water reclamation capacity.

In addition, if USEPA were to interpret OPRA as some of the commenters suggest, and base the mass limits on the actual discharges of the previous year, that interpretation could lead to the result that San Diego would be punished for its superior performance in the previous cycle and encouraged to discharge every possible gram of solids under its next permit to avoid further crankdowns.

USEPA disagrees with the comment that the primary goal of the CWA is the "steady reduction of pollutants into receiving waters." USEPA notes that the substantive sections of the Act authorize the discharge of pollutants through permitting programs, including increases in pollutant loadings in some circumstances. It is an oversimplification of the Act to characterize its primary purpose as the commenter does.

The standards set in section 301(h) of the CWA allow a POTW to seek limits that are less stringent than those that can be achieved with secondary treatment, consistent with specific statutory and regulatory requirements, as long as those discharges with less stringent limits do not interfere with the maintenance of a balanced indigenous population of shellfish, fish, and wildlife. In this case, USEPA evaluated the potential impacts associated with the City's projected mass emissions. The physical oceanographic models used to evaluate plume behavior, initial dilution, and particle deposition were all based on data provided by the applicant regarding flows and loadings. The results of these modeling efforts were then used to project impacts on the water quality, sediment quality and the impacts on benthic community. Our conclusion is that the proposed discharge would meet the nine 301(h) requirements and is in full compliance with the CWA.

Comment 2: *Several commenters questioned the reclamation language in the permit. They stated that there should be requirements for re-use in the permit and that such are required by the Clean Water Act and State Water Code. The commenters also state that there should be an explanation of why reclamation is not practicable and a discussion of the relationship between reclamation and solids loadings (Commenters 28, 34, and 37).*

Response: USEPA disagrees that the CWA requires that discharged wastewater be reclaimed and applied to beneficial uses. Although the CWA recognizes water reuse as an important policy objective through continuing programs of public information and education, it does not impose restrictions on individual dischargers. There is no support for the comment that the Act requires reuse. In addition, there is no requirement under 301(h) to perform an assessment of the relationship between reclamation and solids loading. The California Constitution and several sections of the California Water Code do emphasize the importance of reclamation and reuse, but their provisions are conditional upon the feasibility and practicality of reclamation and reuse projects. Therefore, it is not the policy of the Regional Board to require that specific volumes of water are reclaimed or specific water reclamation projects are implemented.

In response to this comment, the Regional Board and USEPA requested information on the current status of the City's reclaimed water reuse plans. The following is their response:

> "The completion of the South Bay Water Reclamation Plant (SBWRP) adds 15 MGD of capacity to the 30 MGD already in place at the North City Water Reclamation Plant (NCWRP). This provides the City of San Diego with a total influent capacity of 45 MGD of water reclamation.
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> In conjunction with the construction of water reclamation treatment capacity the City began to modify its Strategic Plan for Water Supply to reflect the availability of reclaimed water. Specific Water Reclamation Master Plans have been developed and are being implemented to insure the efficient use of reclaimed water to supplement San Diego's limited water supply. The elements of this planning have included developing and implementing markets for reclaimed water to be used in landscape irrigation and industrial applications.
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> The most recent update of these efforts is included in a Beneficial Reuse Study that is now being implemented as the Water Reclamation Master Plan. It includes a description of the existing reclaimed water system, a reclaimed water market assessment, and a conceptual plan for the reclaimed water system through 2010. It identifies the capital improvements that will be necessary to meet the 2003 – 2010 goals for distribution, marketing and demands. A key component of the water reclamation marketing plan has been incentives to attract potential customers. This was initially achieved by a retrofit program; whereby the City reimbursed the user for the cost of retrofitting their system to use reclaimed water. Approximately 15 million dollars worth of retrofits were funded by this program. This program was recently replaced by a lowering of the cost for the reclaimed water. Reclaimed water is now available for essentially half the cost of the potable rate. The current rate for reclaimed is $.80 per 100 cubic feet while potable costs are averaging $1.50 per 100

cubic feet. Reclaimed rates are to remain the same for the next five years while rate increases of 6% per year are anticipated for the potable rates over this same period.

The City has completed the backbone of the reclaimed water distribution system for the NCWRP service area. Called the Northern Reuse Distribution System, it will be improved as markets develop in the future to fully utilize the capacity of the NCWRP. The Water Department's proposed Capital Improvement Program for 2003-2007 includes over $26 million for this purpose. Currently this system has 219 meters in place for reclaimed water use. Fifty-four of those meters are installed in new development projects. There are 46 miles of distribution pipelines in place ranging in size from 48" to 4". In depth market assessments were conducted in 1991-92 and again in 1994-95 to identify potential customers. These included all existing users with irrigation meters, all large commercial water users and industries with high water consumption as part of their processes. Presently, the major customers include UCSD, Cal Trans, the Torrey Pines Golf Course as well as the Metro Biosolids Center and several significant industries. Customers negotiating and recently signing agreements with service to begin in the near future include the City of Poway, Olivenhain Water District, the Marine Corps Air Station at Miramar, City of San Diego Park and Recreation Department, and the Black Mountain Ranch Development. Continuing marketing efforts have included contacting nearly 1100 potential customers adjacent to existing reclaimed water mains as well as assessing markets that require the further expansion of the distribution system. Approximately 100 new development projects are currently being processed to use reclaimed water in the near future.

Planning efforts are also underway for the southern areas to be served by the SBWRP that will be in service this spring. Plans currently call for initial users to include the International Boundary and Water Commission and the Otay Water District."

Comment 3: *The San Diego Bay Council raised a concern that USEPA did not validate modeled solids deposition rates projected by the applicant in their initial application with actual field measurements of solids deposition (Commenter 25).*

Response: There is no data to make this comparison. However, given the conservative assumptions of the sediment deposition model such a comparison is unnecessary. In the 1994 application, the City modeled solids deposition rates. In the USEPA review conducted in 1995, the USEPA also modeled deposition rates and found results that were comparable to the City's. Both modeling efforts used conservative assumptions regarding the particle settling velocities and the lack of any resuspension. Based on work by Hendricks and Eganhouse (1992) the assumption of no resuspension of sediment can

lead to a six-fold over-estimate of the actual accumulation rates. Therefore, the model predictions provide a conservative estimate of solids deposition and accumulation. The chemical and biological monitoring validate the model predictions that the outfall will not result in any significant build up of organic matter or toxics near the outfall.

Comment 4: *There should be better monitoring at the dredged material disposal site off San Diego (LA 5) (Commenter 25).*

Response: The guidelines and practices related to dredged material disposal have improved substantially since the last revision of the dredged material disposal guidelines (Greenbook, USEPA/ACOE, 1991). All dredged material suitable for ocean disposal is thoroughly tested prior to ocean disposal. Navigation and positioning requirements have been established to ensure that dredged material is placed properly within the disposal site. The LA5 site was extensively monitored over the last several years as part of the Navy dredging project. The high values noted by the City in its application are most likely the result of previous practices and do not reflect current practices.

Comment 5: *San Diego Council suggested that there were trends in Total Organic Carbon (TOC) and Biochemical Oxygen Demand (BOD) in sediments (Commenter 25).*

Response: We have re-evaluated the TOC data. The increases noted by the commenter are within the margin of error in the measurement as determined by comparison of duplicate analyses. We maintain that there is no apparent or statistical trend in TOC.

We also have a hard time seeing any trends in BOD. There is a lot of year to year variability in the BOD data. BOD concentrations generally ranged between 200 and 400 mg/l for both the pre-discharge period and discharge periods. This range is mirrored in the data from the regional data sets. Our review of the data collected since the discharge began indicates that BOD concentrations were higher than the pre-discharge stations at some stations and lower than the pre-discharge stations at others. We do acknowledge that on average sediment concentrations at the outfall depth were slightly higher than those prior to the discharge. However, the average increase of 30 mg/l is small. The precision of the methods as determined by duplicate analyses is around 70 mg/l. We simply do not see anything that looks like a trend. BOD will continue to be part of the outfall monitoring program.

Comment 6: *Several commenters felt that the TDD did not address impacts to fish and wildlife (Commenters 25, 34, 35, and 37).*

Response: The TDD addresses the impacts on wildlife in three ways. First, the USEPA determined that water quality standards designed to be protective of aquatic life (including reproductive and general health) were being attained outside the zone of initial dilution. Second, we determined that the discharge was not having any significant effects on benthic and fish communities. Third, we evaluated tissue concentration of fish most likely to be in contact with the sediments and did not see any outfall related effects. The

monitoring and assessment focuses on water quality, sediment and benthos, and demersal fish communities because these are the areas where we would first expect to see the impact of the discharge. Monitoring for effects on higher trophic levels (birds and mammals) is not part of any ocean outfall monitoring program in the US. The main reasons for this are costs, logistics, and the lack of clear nexus between outfall impacts and these resources. While we acknowledge that POTWs contribute contaminants to the ocean environment and that these may make there way up the food chain, POTWs are only a small contributor to the overall burden.

Comment 7: *San Diego Council felt that the TDD did not take climactic conditions relating to El Niño and La Niña into consideration in their analysis (Commenter 25).*

Response: We acknowledge that El Niño and La Niña affects water temperature, frequency of storms, sediments and biological communities. The advantage of having a long-term monitoring program is that over time the effect of climactic cycles can be put into context. Both El Niño and La Niña conditions have occurred over the 10-year period between 1991 and 2000, while these may certainly influence the biological communities, they do not change the basic patterns around the outfall.

Comment 8: *The San Diego Council wondered whether the Benthic Response Index which was used in the TDD had been peer-reviewed (Commenter 25).*

Response: The Benthic Response Index (BRI) has been peer reviewed and published in the scientific literature [See Smith et al., 2001. Benthic response index for assessing infaunal communities on the Southern California Shelf. Ecological Applications 11(4) pp. 1073-1087]. As discussed in the TDD, the patterns in the BRI are similar to those observed for the Infaunal Trophic Index and other benthic parameters (e.g., abundance, species richness, *Amphiodia*, *Parvalucina*, and *Euphilomedes*). We are confident that we have quantified and described the magnitude and extent of the outfall on the benthic community.

Comment 9: *Several commenters expressed concern over the use of bacterial indicators to protect public health. They also raised concern about the potential shoreward transport of the plume along with associated pathogens (Commenters 25, 33, and 40).*

Response: Total coliform, fecal coliform, and eneterococcus are used as bacterial indicators because these are the only indicator organisms for which we have standards to evaluate the impact of the discharge on human health. USEPA has recently reviewed a number of epidemiological studies from around the world including the Santa Monica Bay Study and determined that USEPA standards are appropriate.

USEPA acknowledges that the presence of bacterial indicators may not track the presence of viruses. However, the virus issue is much bigger than the San Diego Point Loma permit. There are currently no standards based on viruses, the techniques for measurement have not been standardized, and the epidemiological studies to develop

dose-response relationships have not been done. As part of the BEACH program, USEPA will be conducting an epidemiological survey that will include viral measurements to re-evaluate the existing recreational water contact standards.

The potential shoreward transport of the plume is addressed in part through physical oceanographic studies performed by the applicant and reviewed by USEPA as well as bacterial monitoring data which indicates that the plume is generally kept at depth and concentrations at the kelp beds are low. We acknowledge the occurrence of "near isothermal waters", however our review of the bacteriological data which is used to identify the plume location indicates that the plume surfaces very infrequently, if at all.

Comment 10: *Several commenters expressed concern over the adequacy of the monitoring program to assess long-term trends and cumulative impacts (Commenters 25, 33, 34, 36, and 40).*

Response: We acknowledge the recommendations for improved monitoring. Several commenters mentioned the use of remote sensing techniques. Remote sensing has been included in the permit monitoring program. The ability to assess long-term trends is a key component of the core monitoring program. The City has also been participating in regional monitoring programs to provide a regional perspective and to help address cumulative impacts of from multiple sources on the marine environment. One commenter mentioned the idea of having a site situated in La Jolla Canyon. This idea is a very good one and has also been recommended by Safe And Fair Environmental (SAFE) Treatment Coalition. It is likely to be a component of the next bight-wide regional monitoring effort in 2003.

Comment 11: *There was a request that the data be reviewed on an annual basis by an independent authority (Commenters 25, 33, 36, and 37).*

Response: The data generated by the applicant is reviewed by the applicant and submitted to USEPA and the Regional Board on an annual basis. We do not at this time feel the need to have these data independently analyzed by a third party. Citizen groups and interested parties have the ability to review the reports and data and make their own findings.

Comment 12: *There was a request that the data generated by the City's monitoring program be made available in an electronic format (Commenters 25 and 33).*

Response: We agree that the data should be available in an electronic format. We have been working with the City on this issue. USEPA recieves the data in an electronic format. The draft permit includes a provision for the data to be entered into USEPA's STORET database so that the information can be made available to the public.

Comment 13: *Several commenters questioned the estimated costs for upgrading the Point Loma Treatment Plant to full secondary (Commenters 36, 37, and 41).*

Response: USEPA's TDD does not address economic considerations. Our analysis is based on compliance with the nine 301(h) criteria applicable regulations. Nothing in the 301(h) regulations requires a consideration of economics.

Comment 14: *Some commenters stated that the public response time was insufficient to review the material. It was requested that the public comment period be extended (Commenters 33 and 37).*

Response: The length of the public comment period is consistent with other NPDES permits. The City's application package has been available for review since April 11, 2001 at the Regional Board or USEPA.

Comment 15: *It was suggested that commingling of secondary treated wastewater from the North City Water Reclamation Plant (NCWRP) dilutes the raw influent into the PLMWTP and thereby reduces the TSS and BOD removal efficiency of the PLMWTP (Commenter 37).*

Response: It is true that the influent stream to the PLMWTP would be more concentrated if effluent from the NCWRP were reclaimed instead of commingled with the PLMWTP influent. However, the affect on overall efficiency is minute when considering the percentage of flow represented by secondary effluent from the NCWRP compared to the total PLMWTP influent. Notwithstanding, the USEPA and Regional Board will continue to encourage the City to reuse water from its reclamation facilities.

Comment 16: *Surfrider expressed concern that antidegradation standards be observed (Commenter 37).*

Response: The permit contains provisions for addressing anti-degradation. The monitoring program has performance-based benchmarks which, if exceeded, trigger anti-degradation analyses.

Comment 17: *Several commenters requested that the 301(h) waiver from secondary treatment be denied (Commentors 19, 20, 39, and 41).*

Response: The City's application meets the 9 criteria established in Section 301(h) of the CWA and the discharge meets all State water quality standards; therefore, there is no basis for denying the waiver.

Comment 18: *Several commenters expressed concern about this decision setting a precedent for other 301(h) applications (Commenters 19, 20, 40, and 41).*

Response: Each application is evaluated by USEPA on a site-specific basis relative to the nine 301(h) criteria. As is stated in our cover letter to the TDD, USEPA's tentative decision is based on "available evidence specific to this particular discharge, it is not

intended to assess the need for secondary treatment in general, nor does it reflect on the necessity for secondary treatment by other publicly owned treatment works discharging to the marine environment."

Comment 19: *Several Ocean Outfall Group (OOG) representatives suggested that the applicants data should be viewed with skepticism and questioned the wisdom of self-monitoring (Commenters 19, 20, 40, and 41).*

Response: We acknowledge that dischargers may want to present their findings in a favorable manner. That is precisely why USEPA performs an independent review of all the data provided by the applicant as well as other appropriate data. USEPA's decision is based on this independent review. Self-monitoring is the norm for all NPDES monitoring programs. Regulatory agencies do not have the resources or staffing to monitor directly all NPDES discharges. Data quality is assured through two key provisions: first they must have a QA/QC plan, and second, there are severe criminal penalties for falsification of data. The discharge facilities and their laboratories are subject to unannounced compliance inspections and audits.

Comment 20: *Several commenters suggested that 301(h) modifications were intended to be temporary fixes and that modifications are not consistent with the goals of the Clean Water Act (Commenters 19, 20, 40, and 41).*

Response: Modifications from the secondary treatment requirements are specifically permitted in the Clean Water Act, provided the applicant meets the nine statutory criteria designed to ensure that all water quality standards are being met and that all beneficial uses are being protected. The applications may be renewed every five years pending an evaluation by USEPA and a tentative decision that the nine criteria are met.

Comment 21: *Several commenters stated that OPRA, 33 U.S.C § 1305(j)(5), was not legally applicable to the issuance of this permit and that USEPA should not be issuing this permit under this law. The commenters argue that OPRA applied only during the intial permit term and not to the subsequent renewal periods. Mr. Bromfield of the City of San Diego cited the historical chronology leading up to the enactment of OPRA, the financial effect on the City a perpetual application of OPRA would have, and the argument that both the statutory language and subsequent legislative history of OPRA make it clear that it was to be used by USEPA in making its 1995 decision on the City's permit and waiver application but not in any subsequent application. Both Mr. Bromfield and Mr. McHenry (on behalf of International Specialty Products) stated that since the draft permit is consistent with the City's application, which did not rely upon OPRA, USEPA does not have to rely upon OPRA in issuing the permit and that the issue of what OPRA means need not be decided at this time. Specifically, both of these commenters suggested that USEPA include the following language in both the permit and the tentative decision:*

> *USEPA recognizes that there is a dispute between USEPA and the City over whether Section 301(j)(5) governs the renewal of the City's permit in perpetuity. Since the discharge limitations in this permit conform to the technical limits of Section 301(j)(5), this permit does not decide the legal issue of whether Section 301(j)(5) applies to the renewal of the City's permit in perpetuity.*

This language is proposed to replace the footnotes in both the draft permit and tentative decision that state the following:

> *This permit [tentative decision] is issued without prejudice to the rights of any party to address the legal issue of the applicability of 33 U.S.C. § 1311(j)(5) to the City's future NPDES permits.*

(Commenters 6, 16, 11, 13, and 22)

Response: Although Mr. Bromfield's comments indicate he does not believe the USEPA needs to address the issue of OPRA's continuing applicability, we note that most of his comments focus on the City's contention that OPRA does not apply. Consistent with principles of administrative law, agencies have an obligation to respond to germane comments. As noted by Mr. Bromfield in his comment letter, the issue of the applicability of OPRA to the renewal of the City's permit and waiver is one that has been under formal discussion between USEPA and the City since late 1999 when then Mayor Golding sent a letter to USEPA Administrator Carol Browner. This discussion included a litigation challenge of the USEPA written response to Mayor Golding's inquiry which ended in a 9th Circuit decision upholding USEPA's position that USEPA's response was not a final agency action. As the Court noted, the "USEPA decision-making process on the City's application for renewal of its section 301(h) modified permit will not even begin until the City files its application." The parties are now in the middle of that process.

USEPA disagrees with the City's comments that OPRA's language clearly was intended only to provide for a re-opening of the application period for which the City could apply for a waiver of secondary treatment requirements. If that is true, the conditions Congress decided to include in OPRA would not have been present.

For the following reasons, and consistent with our previous position announced in our February 17, 2000 letter from Felicia Marcus to the Mayor, USEPA interprets the OPRA conditions to continue to apply to the City's application and permit:

1. Nothing in OPRA specifies that its requirements would cease to exist after the first permit term. CWA section 301(j)(1) established a deadline for applications for section 301(h)-modified permits, which the City missed. Section 301(j)(5) appears to represent the terms of the legislative compromise for an application back into the section 301(h) program.

2. OPRA calls for achievement of water reclamation program system capacity by 2010. The delayed date beyond the first permit term, indicates the continuing effect of OPRA. Interpreting this provision as a one-time obligation rather than a continuing one would render the required commitment meaningless. Section 301(j)(5)(B)(i).

3. The water reclamation program commitment to reduce solids "during the period of the modification" suggest that the suspended solids loading reduction commitment is intended to continue during the time period that San Diego discharges under a modified permit. Moreover, as stated above, because the system capacity is a continuing commitment, we do not interpret this reclamation provision to be a one-time obligation.

4. The percent removal requirements for BOD and TSS appear fixed for San Diego, unlike for other 301(h) applicants. These requirements apply to the "discharge to which the modification applies."

5. This interpretation is also consistent with subsequent actions taken by Congress. In 1995, Congress considered giving the City a permanent exemption for the CWA's secondary treatment requirements. The report accompanying this bill noted that "the requirements of the Ocean Pollution Reduction Act of continuing [TSS] reductions could eventually drive the City to secondary treatment, with its enormous price tag." H.R. Rep. No. 192, 104th Cong., 1st Sess. 4 (1995). Without commenting on the validity of this statement with respect to the substantive effect of OPRA, we believe that this comment demonstrates that at least one subsequent Congress assumed that the water reclamation program commitments would apply beyond the first permit term.

Based on these reasons and those stated in the February 17, 2000 letter, USEPA disagrees with the City's comment that OPRA is inapplicable to this permit term.

The City proposes to avoid this legal issue by the inclusion of the language referenced above. This language is intended to replace language in the draft permit and tentative decision which indicates that although USEPA has issued the permit under OPRA, the rights of any party to challenge this decision in the future should not be prejudiced. The basis for USEPA's position is that each permit is a separate action [see, Texas Municipal Power Agency v. USEPA, 836 F.2d 1482, 1485 (5th Circuit, 1988)]. In addition, because USEPA's NPDES permit regulations require USEPA to state the basis for the permit and its conditions, including the derivation of the conditions of the draft permit and the reasons for them (see 40 C.F. R. § 124.7), we believe, in order to support the permit according to administrative law principles, it is important to identify the statutory basis for the various permit terms, but especially the water reclamation provisions that would not otherwise apply if OPRA did not continue to apply.

Comment 22: *Several commenters expressed their general support of Tentative Order No. R9-2002-0025 and Draft NPDES Permit No. CA0107409 (Commenters 1, 2, 3, 4, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 21, 22, 23, 26, 27, 29, 30, 31, 32, and 38).*

Response: We acknowledge the support for USEPA's TDD and the draft permit, the statements that the proposed permit provides for full protection of the public health and the environment, and the concerns that demands for higher levels of treatment at the plant would impose an economic burden on the City.

Comment 23: *Any and all efforts be made to improve compliance within the five year term of the tentative permit and any and all efforts be directed towards continued and enhanced monitoring and study of potential environmental impacts (Commenter 4).*

Response: The USEPA and Regional Board will continue to closely monitor compliance and pursue efforts to improve the monitoring and reporting program as well as studies of impacts of the discharge on the marine environment.

Comment 24: *Periodic monitoring and study results should be provided to all commenting and interested parties (Commenter 4).*

Response: All monitoring reports and study results that are required by the Monitoring and Reporting Program associated with Tentative Order No. R9-2002-0025, NPDES Permit No. CA0107409 are available for review at the office of the Regional Board.

Comment 25: *Tentative Order, page 5, item number 8. This paragraph states that the South Bay Water Reclamation Plant began operation in December 2001. It has not yet begun operation, but we expect it will begin operation in March of 2002. Additionally, the effluent from this plant will discharge approximately 3.5 miles offshore through the South Bay Ocean Outfall, not one mile as is written here (Commenter 5).*

Response: The expected date of operation will be changed to April 2002. The distance of discharge from shore will be changed to 3.5 miles.

Comment 26: *Tentative Order, page 8, item number 16. The first sentence is difficult to understand as written. Suggested rewrite, "The City has implemented a reclamation program with a system capacity of 45 MGD of reclaimed wastewater with the addition of the South Bay Reclamation Plant. This meets the requirement for reclaimed water capacity of 45 MGD prior to the January 1, 2010 deadline." (Commenter 5).*

Response: The sentence will be changed.

Comment 27: *Tentative Order, check for consistency. The Point Loma Wastewater Treatment Plant is abbreviated as both PLMWTP and PTWWTP. The first page states that it should be abbreviated as PLMWTP (Commenter 5).*

Response: PLMWTP will be used for consistency.

Comment 28: *Tentative MRP, page 4, item 18 (line 15). Minor format correction regarding the apostrophe in "discharger's" (it's currently a box). (Commenter 5)*

Response: Suggested change will be made.

Comment 29: *Tentative MRP, page 6, point 22, reporting schedule table. Minor format correction under Receiving Waters Monitoring Report needs a space between "monitoring" and "report." (Commenter 5)*

Response: Suggested change will be made.

Comment 30: *Tentative MRP, Receiving Environment Monitoring, Receiving Water Sampling and Analyses Requirements, page 17, paragraph 3 (line 2). Delete "shall be monitored" following the parenthetical list of kelp stations - it's redundant to what is said prior to the parentheses (Commenter 5).*

Response: Suggested change will be made.

Comment 31: *Tentative MRP, Receiving Environment Monitoring, Receiving Water Sampling and Analyses Requirements, page 17, paragraph 4 (line 3). Missing word - insert "contour" after 45-meter (Commenter 5).*

Response: Suggested change will be made.

Comment 32: *Tentative MRP, Receiving Environment Monitoring, Receiving Water Sampling and Analyses Requirements, page 17, paragraph 4 (line 4). Change "200-foot contour" to "60-meter contour" for consistent use of metric terminology (Commenter 5).*

Response: Suggested change will be made.

Comment 33: *Tentative MRP, Receiving Environment Monitoring, Benthic Monitoring Requirements, Fish Monitoring, page 21, paragraph 2 (line 1). Change "station" to "stations." (Commenter 5)*

Response: Suggested change will be made.

Comment 34: *Tentative MRP, last two pages, Briefing Papers for OWOW Review. Perhaps these were inadvertently included? (Commenter 5)*

Response: The pages were inadvertently included and will be deleted.

Comment 35: *Fact Sheet, EFFLUENT LIMITATIONS, page 9, second paragraph The flow rate of 205 MGD should be 195 MGD (Commenter 5).*

Response: Suggested change will be made.

Comment 36: *Tentative Order, section B.1.c (pg. 17) and section C.3.b (pg. 30). For consistency, the Order and the MRP requirement for Chromium throughout both documents should have the same footnote attached. This footnote states that "The discharger may, at its option, meet this requirement using a total chromium value." These two sections do not reference the footnote (Commenter 5).*

Response: Suggested change will be made.

Comment 37: *Tentative Order, Section C.3.a, page 28. The values in the Water Quality Objectives (WQO) table have been changed to reflect the new California Ocean Plan (COP). The silver values, however, did not change. The values in the new COP are 0.45, 1.8 and 4.5. Is it simply an oversight that these numbers were not changed? (Commenter 5)*

Response: The WQOs for silver correctly reflect those listed in the 2001 Ocean Plan. The City could be referring to a draft version of the plan.

Comment 38: *Tentative Order, Pretreatment Requirements, page 34, first paragraph. The reporting deadline for the Annual Pretreatment Report was extended from March 1 to April 30. We need to extend it only to April 1. This would be consistent with other reporting deadlines in the Order (Commenter 5).*

Response: Suggested change will be made.

Comment 39: *Tentative Order, Section F.9, Minimum Levels, page 42. We request time to propose and implement an action plan for dealing with the technical problems and inconsistencies that arise when applying the new Ocean Plan standards for minimum levels to the samples required in this Order and MRP. We will need to interface closely with the RWQCB and the USEPA to develop methodologies and work through practical issues that arise. We request one year to implement the minimum level requirements (Commenter 5).*

Response: Section F.9 and F.10 of the permit require that the City select minimum levels from Appendix II of the COP and use them as the lowest calibration standards. Additionally, the sections acknowledge that factors such as dilution and matrix interferences will affect the "reported" minimum level. It is implicit that it will take time to determine whether the City's instruments can be recalibrated using the minimum levels in Appendix II of the COP or whether a variance, as allowed by the COP, is needed. Furthermore, it will take time to determine the factor that must be applied to the minimum levels for matrix interferences. The Regional Board will work closely with the City to implement the new standards as quickly as practicable.

Comment 40: *Tentative Order, Compliance Determination, page 46, item 13. We suggest adding Mysidopsis bahia to the list of test species and methods in order to have more than one species for which acute toxicity tests can be conducted. The screening requirement for chronic toxicity states that the initial screening shall take place on the first three suites of tests. The language following that with respect to screening is ambiguous. We suggest in subsequent years that screening be reduced in frequency to once every other year and that subsequent screening periods may be limited to 1 month if those results are the same as the previous 3-month screening. Given that the acute toxicity requirement is semi-annual testing, we suggest the screening requirement for acute tests be limited to three tests at the beginning of the permit cycle, and that it not be required again for this permit (Commenter 5).*

Response: Suggested change will be made.

Comment 41: *Tentative MRP. Section A.20, page 5. We request to change the reporting frequency of the connection information from monthly to either quarterly or annually. Monthly reporting of that information is not particularly meaningful (Commenter 5).*

Response: Reporting frequency for this requirement will be changed to annually.

Comment 42: *Tentative MRP, page 6, item 22, reporting schedule table. The kelp report, a combined effort of all ocean dischargers in Region 9, did not have a reporting deadline in previous permits. This report has historically been presented to the RWQCB as a group effort in October. Therefore, we would like the reporting deadline for this report extended to October 1, allowing for input from all of the participating agencies before it is submitted (Commenter 5).*

Response: Suggested change will be made.

Comment 43: *Tentative MRP, page 6, item 22, reporting schedule table. The reporting schedule listed does not match the reports or the dates that are required in the text portion of the MRP. The following change is suggested to maintain consistency with other portions of the MRP and the Tentative Order and the requested changes to reporting dates in comments above (Commenter 5).*

Response: The Benthic Infauna, Trawl, and Ocean Sediment Reports are no longer required quarterly. Quarterly sampling and analysis should be included in the annual Receiving Waters Monitoring Report. For Annual Reports, the QA Report due date will be changed to April 1. The Kelp Report due date will be changed to October 1.

Comment 44: *Tentative MRP, Receiving Environment Monitoring, Offshore Water Quality Stations, page 13 (table). Because of increased accuracy of GPS locations, small latitude/longitude corrections are needed for stations C4, C5 and C6 in the station location table (Commenter 5).*

Response: Suggested change will be made.

Comment 45: *Tentative MRP, Receiving Environment Monitoring, Shore Stations, page 14 (table). We request that you drop shore stations Dl, D2 and D3 from the shoreline monitoring program. These three stations are replicated in the International Wastewater Treatment Plant Monitoring and Reporting Program No. 96-50 as stations S12, S8 and S9. Those stations are sampled weekly as part of the monitoring required for the South Bay Ocean Outfall. Their inclusion in this permit amounts to double reporting of identical data (Commenter 5).*

Response: The Regional Board and USEPA intend to modify both the Point Loma and South Bay Ocean Outfall receiving water monitoring programs later this year. Any duplication in monitoring stations will be corrected at that time.

Comment 46: *Tentative MRP, Receiving Environment Monitoring, Shore Stations, page 14 (table). Because of increased accuracy of GPS locations, a small longitude correction is needed for station D6 (Commenter 5).*

Response: Suggested change will be made.

Comment 47: *Tentative MRP, Receiving Environment Monitoring, Fish Trawl and Rig Fish Stations, pages 14-15 (table). Because of increased accuracy of GPS locations, small depth and latitude/longitude corrections are needed for several stations (Commenter 5).*

Response: Suggested change will be made.

Comment 48: *Tentative MRP, Section D.2, page 16. We request to drop the oil and grease analysis for receiving waters. The methodology for this analysis has recently been restricted by the USEPA, disallowing the infrared spectrographic method because of the freon extraction process that is required. The gravimetric method will have to be employed on future samples. This method is much less sensitive and will produce even less meaningful results than we have historically collected. The usefulness of these data using the spectrographic method was negligible. The loss of sensitivity with the gravimetric method will provide no useful information (Commenter 5).*

Response: Suggested change will be made.

List of Commenters:

1. Mayor Shirley Horton, City of Chula Vista (letter dated February 25, 2002)
2. Mayor Mark Lewis, City of El Cajon (letter dated March 5, 2002)
3. Councilmember Richard Ramos, City of El Cajon (letter dated February 27, 2002)
4. Barry Johnson, City of Imperial Beach (letter dated March 11, 2002)
5. Alan Langworthy, City of San Diego (letter dated March 12, 2002)
6. Ted Bromfield, Senior Deputy City Attorney of the City of San Diego (letter dated March 12, 2002)
7. Mayor Dick Murphy, City of San Diego (letter dated March 12, 2002 and oral comments)
8. Councilmember Scott Peters, City of San Diego (letter dated March 12, 2002 and oral comments)
9. Scott Tulloch, City of San Diego (letter dated March 12, 2002 and oral comments)
10. Andrew Currie, CPKelco (letter dated March 6, 2002)
11. Congressmember Darrell Issa, House of Representatives (letter dated March 12, 2002)
12. State Senator Dede Alpert, 39th District (letter dated March 11, 2002)
13. Congressmembers Bob Filner and Susan Davis, House of Representatives (letter dated March 11, 2002)
14. State Assemblymember, Howard Wayne 78th District (letter dated March 13, 2002)
15. Patti Krebs, Industrial Environmental Association (letter dated March 6, 2002)
16. Thomas McHenry of Gibson, Dunn & Crutcher on behalf of International Specialty Products (letter dated March 12, 2002)
17. Teri Basta, Metro Commission (letter dated March 1, 2002)
18. Jay Goldby, Metro Wastewater JPA, Resolution No. 2002-03 (dated February 22, 2002 and oral comments)
19. Jan Vandersloot, Ocean Outfall Group (letter dated March 11, 2002)
20. Jeff Stevens, Ocean Outfall Group (letter dated March 12, 2002)
21. Augie Caires, Padre Dam Municipal Water District (letter dated March 11, 2002)
22. Congressmember Randy Cunningham, House of Representatives (letter dated March 11, 2002)
23. Steve Zapoticzny, SAFE Treatment Coalition (letter dated March 13, 2002 and oral comments)
24. SAFE Treatment Coalition, report entitled "*Discharge Effects of the Point Loma Wastewater Treatment Plant and Ocean Outfall & Review of the Sierra Club Analysis"* (dated January 2002)
25. San Diego Bay Council (letter dated March 12, 2002)
26. Eugene Mitchell, San Diego Regional Chamber of Commerce (letter dated March 11, 2002)
27. W. Erik Bruvold, San Diego Regional Economic Development Council (letter dated March 11, 2002 and oral comments)
28. Robert Simmons, Sierra Club (March 13 2002 and oral comments)
29. Andrew Shogren, Office of Congressmember Bob Filner, House of Representatives (oral comments)

30. Ron Miller, Industrial Environmental Association (oral comments)
31. Peter MacLaggan, San Diego Regional Chamber of Commerce (oral comments)
32. David McKinley, International Specialty Products (oral comments)
33. Ed Kimura , San Diego Bay Council (oral comments)
34. Stephanie Pacey, San Diego BayKeeper (oral comments)
35. Jim Peugh, San Diego Audubon Society (oral comments)
36. Bruce Reznik, San Diego BayKeeper (oral comments)
37. Marco Gonzales, Surfrider Foundation, San Diego BayKeeper (oral comments)
38. Paul Dayton, Scripps Institution of Oceanography (oral comments)
39. James McDonald (oral comments)
40. Larry Porter, Ocean Outfall Group (oral comments)
41. Doug Korthof, Ocean Outfall Group (oral comments)